

DAVID HANCOCK, et al.)
)
v.) NO. 3-10-0935
) JUDGE CAMPBELL
THOMAS R. BENNING, M.D., et al.)


Defendant Seton Corporation d/b/a Baptist Hospital has moved to dismiss Plaintiffs' action herein for failure to file a Certificate of Good Faith as required by Tennessee Code Annotated Section 29-26-122. Tennessee law requires a plaintiff in any medical malpractice action in which expert testimony is required to file a Certificate of Good Faith with the Complaint, indicating that the plaintiff or plaintiff's counsel has consulted with one or more experts who have provided a signed written statement confirming their belief that there is a good faith basis upon which to maintain the action. Tenn. Code Ann. § 29-26-122.

Plaintiffs did not file a Certificate of Good Faith in this action. As noted above, however, they did file a Certificate of Good Faith in the original state court action.

As in *Jenkins v. Marvel*, 683 F.Supp.2d 626 (E.D. Tenn. 2010), which dealt with a similar notice provision of Tennessee's Medical Malpractice Act, this Court finds that the purpose of the Certificate of Good Faith provision has been met here. *See also Howell v. Claiborne and Hughes Health Center*, 2010 WL 2539651 (Tenn. Ct. App. June 24, 2010). Defendants knew, on August 25, 2009, when the Certificate of Good Faith was filed in state court, that Plaintiffs had consulted with one or more experts who had provided such a statement. *See* Docket No. 25-3.

Accordingly, Defendant's Motion to Dismiss (Docket No.18) is DENIED.

IT IS SO ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE